



General Assembly

Substitute Bill No. 1012

January Session, 2001

AN ACT CONCERNING NITROGEN REDUCTION IN LONG ISLAND SOUND.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) As used in sections 2 to 5, inclusive, of this act:
- 2 (1) "Equivalency factor" means a ratio of the unit response of
3 dissolved oxygen to nitrogen in Long Island Sound for each publicly-
4 owned treatment works based on the geographic location of the
5 specific publicly-owned treatment works' discharge point divided by
6 the unit response of the geographic area with the highest impact;
- 7 (2) "Equivalent nitrogen credit" means a nitrogen credit multiplied
8 by the equivalency factor;
- 9 (3) "Equivalent pounds" means the actual pounds of nitrogen
10 discharged by a publicly-owned treatment works multiplied by the
11 equivalency factor for that publicly-owned treatment works;
- 12 (4) "Individual waste load allocation" means that portion of the
13 state-wide waste load allocation apportioned to an individual publicly-
14 owned treatment works;
- 15 (5) "Nitrogen" means the total of ammonia nitrogen, organic
16 nitrogen, nitrite nitrogen and nitrate nitrogen;
- 17 (6) "Nitrogen Credit Advisory Board" means the board appointed

18 by the Commissioner of Environmental Protection pursuant to section
19 3 of this act;

20 (7) "Nitrogen credit exchange program" means the program within
21 the Department of Environmental Protection established pursuant to
22 section 4 of this act;

23 (8) "Nitrogen credit" means the difference between the annual total
24 nitrogen load specified for a publicly-owned treatment works in the
25 general permit for nitrogen discharges and the annual total nitrogen
26 load discharged by that publicly-owned treatment works expressed as
27 pounds of nitrogen per day;

28 (9) "Nonpoint source" means any source of nitrogen originating
29 from other than a readily discernable end of pipe source;

30 (10) "Publicly-owned treatment works" means a system used for the
31 collection, treatment or disposal of sewage from one or more parcels of
32 land and that discharges to the waters of the state and is owned by a
33 municipality or the state;

34 (11) "State-owned equivalent nitrogen credits" means the difference
35 between the annual state-wide waste load allocation established in the
36 total maximum daily load and the sum of the annual discharges for all
37 publicly-owned treatment works;

38 (12) "State-wide waste load allocation" means the maximum
39 allowable nitrogen load from publicly-owned treatment works into
40 Long Island Sound that will meet water quality standards as specified
41 in the total maximum daily load;

42 (13) "Total maximum daily load" means the total maximum daily
43 load analysis to achieve water quality standards for dissolved oxygen
44 in Long Island Sound, as established by the Department of
45 Environmental Protection and as approved by the United States
46 Environmental Protection Agency; and

47 (14) "Unit response" means the reaction of dissolved oxygen in Long

48 Island Sound to a change in nitrogen loading of 1.0 pound.

49 Sec. 2. (NEW) Notwithstanding any provision of section 22a-430 or
50 22a-430b of the general statutes and notwithstanding nitrogen limits
51 specified in individual discharge permits issued pursuant to said
52 section 22a-430, the Commissioner of Environmental Protection shall
53 issue a general permit specifying effluent limits for nitrogen in
54 accordance with the total maximum daily load. In order to meet water
55 quality standards, the commissioner may incorporate compliance
56 schedules into permits issued under this section and said sections
57 22a-430 and 22a-430b. The general permit shall establish effluent limits
58 for nitrogen and shall establish an annual compliance schedule for
59 nitrogen for each publicly-owned treatment works. Under the general
60 permit, the commissioner may require publicly-owned treatment
61 works to (1) meet effluent limits and other conditions for discharging
62 nitrogen to the waters of the state pursuant to their individual waste
63 load allocations, (2) comply with monitoring requirements as set forth
64 in the general permit, and (3) comply with any other requirements as
65 determined by the commissioner necessary to carry out the provisions
66 of this section. Publicly-owned treatment works may participate in the
67 nitrogen credit exchange program in order to comply with effluent
68 limits for nitrogen specified in the general permit.

69 Sec. 3. (NEW) (a) The Commissioner of Environmental Protection
70 shall establish a Nitrogen Credit Advisory Board to assist and advise
71 the commissioner in administering the nitrogen credit exchange
72 program. The board shall consist of the Commissioner of
73 Environmental Protection or the commissioner's designee, the
74 Secretary of the Office of Policy and Management or the secretary's
75 designee, the State Treasurer or the Treasurer's designee and five
76 public members to be appointed by the Commissioner of
77 Environmental Protection. The Commissioner of Environmental
78 Protection, in making such appointments, shall, to the extent possible,
79 create a balanced advisory board with regard to buyers and sellers of
80 credits, large and small municipalities and representatives from
81 different geographic regions of the state. The five public members shall

82 include an official of a major publicly-owned treatment works, a
83 municipal public works official, a representative from a municipality
84 that purchases nitrogen credits, a representative from a municipality
85 that sells nitrogen credits and three persons having experience in
86 either wastewater treatment, environmental law or finance. The
87 Commissioner of Environmental Protection shall make all such
88 appointments not later than August 1, 2001.

89 (b) The Commissioner of Environmental Protection, or the
90 commissioner's designee, shall serve as chairperson of the board and
91 shall schedule the first meeting of such board not later than September
92 1, 2001. A majority of the members shall constitute a quorum for the
93 transaction of business. The principal office of such board shall be the
94 office of the Commissioner of Environmental Protection. At its first
95 meeting, the board shall determine by lot which members shall serve
96 for one, two or three years, provided the terms of office of not more
97 than fifty per cent of the board shall expire in any one year. Thereafter,
98 each term of office shall be for three years. The board shall choose a
99 secretary by ballot from its membership.

100 (c) Not later than September thirtieth, annually, the board shall
101 submit to the joint standing committee of the General Assembly
102 having cognizance of matters relating to the environment its findings
103 that address the following:

104 (1) A summary of the nitrogen credit exchange program's progress
105 in achieving the total maximum daily load;

106 (2) The adequacy of the Clean Water Fund financing pursuant to
107 section 22a-477 of the general statutes, as amended by this act, to
108 support the nitrogen credit exchange program and the total maximum
109 daily load;

110 (3) Recommendations for changes to the program including, but not
111 limited to: (A) Exchanging nitrogen credits with entities outside the
112 state; (B) expanding the general permit for nitrogen discharges and the
113 nitrogen credit exchange program to include additional point and

114 nonpoint sources; and (C) exchange transactions executed outside of
115 the nitrogen credit exchange program; and

116 (4) Identification of any other issues that need to be resolved.

117 Sec. 4. (NEW) (a) The Commissioner of Environmental Protection
118 shall establish a nitrogen credit exchange program to assist in the
119 implementation of the total maximum daily load. The nitrogen credit
120 exchange program shall apply to all publicly-owned treatment works
121 included in the general permit issued pursuant to section 2 of this act.

122 (b) The commissioner, in consultation with the Nitrogen Credit
123 Advisory Board, shall:

124 (1) Establish a schedule and monitor all nitrogen removal
125 construction projects;

126 (2) Establish an equivalency factor for each publicly-owned
127 treatment works, which may be revised at the commissioner's
128 discretion consistent with the total maximum daily load. The
129 equivalency factor and any proposed revisions shall be made available
130 for public comment at least thirty days prior to being implemented in
131 the nitrogen credit exchange program;

132 (3) Establish the individual waste load allocation for each publicly-
133 owned treatment works utilizing the equivalency factors and taking
134 into consideration the schedule for nitrogen removal construction
135 projects;

136 (4) Monitor annual progress in meeting the fifteen-year
137 implementation schedule in the total maximum daily load;

138 (5) Propose modifications, as may be necessary, to the general
139 permit for nitrogen discharges;

140 (6) Establish the annual value of equivalent nitrogen credits giving
141 consideration to all relevant factors and circumstances including, but
142 not limited to: The equivalent pounds of nitrogen removed from all

143 municipal wastewater treatment facilities operating in this state; the
144 incremental capital costs attributable to the nitrogen removal portion
145 of each municipal wastewater treatment facility initiating operation in
146 this state over the preceding five years; the incremental operation and
147 maintenance costs attributable to the generation of equivalent nitrogen
148 credits by each municipal wastewater treatment facility initiating
149 operation in this state over the preceding five years; and
150 methodologies to appropriately weigh and integrate capital and
151 operation costs for this state's municipal wastewater treatment
152 facilities and to calculate a five-year rolling average for equivalent
153 nitrogen credits available for exchange for all municipal treatment
154 facilities operating in this state;

155 (7) Oversee and execute all equivalent nitrogen credit exchanges;

156 (8) Maintain a separate account of state-owned equivalent nitrogen
157 credits;

158 (9) Purchase all equivalent nitrogen credits created by publicly-
159 owned treatment works at the annually established value;

160 (10) Sell available state-owned equivalent nitrogen credits including
161 nitrogen credits purchased from publicly-owned treatment works at
162 the annually established value to enable publicly-owned treatment
163 works to meet nitrogen limits specified in the general permit for
164 nitrogen discharges;

165 (11) Whenever practicable, sell remaining state-owned equivalent
166 nitrogen credits to any other public or private entity;

167 (12) Establish an annual uniform transaction fee not to exceed five
168 per cent for each equivalent nitrogen credit transaction;

169 (13) Establish accounts of funds created from the purchase and sale
170 of equivalent nitrogen credits and the collection of transaction fees to
171 be used for administration of the nitrogen credit exchange program
172 and which may be used for nitrogen removal projects, habitat

173 restoration projects and research; and

174 (14) Establish any other policies or procedures the commissioner
175 may deem necessary to carry out the nitrogen credit exchange
176 program.

177 (c) (1) Not later than March thirty-first, annually, the commissioner
178 shall audit the performance of each publicly-owned treatment works
179 operating from January first to December thirty-first of the preceding
180 year and shall (A) determine the number of equivalent nitrogen credits
181 for sale and the number of equivalent nitrogen credits to be purchased,
182 (B) determine and publish the annual value of equivalent nitrogen
183 credits, and (C) notify each publicly-owned treatment works of their
184 equivalent nitrogen credit balance. A municipality may petition the
185 Nitrogen Credit Advisory Board, established pursuant to section 3 of
186 this act, to request that the commissioner hold a public hearing to
187 reevaluate the formula used in establishing the value of equivalent
188 nitrogen credits pursuant to this subsection. Upon a two-thirds vote of
189 the members of the board for such a hearing, the commissioner shall
190 conduct a public hearing and issue a ruling as to whether such formula
191 should stand or be revised.

192 (2) Not later than July thirty-first, annually, each publicly-owned
193 treatment works shall purchase equivalent nitrogen credits necessary
194 to meet its nitrogen limits. Such purchase shall be paid by certified
195 bank check or money order made payable to the "nitrogen credit
196 exchange program". The check or money order shall state on its face
197 "nitrogen credit purchase".

198 (3) Not later than August fourteenth, annually, the commissioner
199 shall purchase all available equivalent nitrogen credits.

200 Sec. 5. (NEW) The Commissioner of Environmental Protection may
201 audit the annual operating data of publicly-owned treatment works
202 participating in the nitrogen credit exchange program in order to
203 assess permit compliance. Publicly-owned treatment works that do not
204 meet permit limits through treatment or the purchase of credits shall

205 be subject to the enforcement provisions of chapter 446k of the general
206 statutes.

207 Sec. 6. The Commissioner of Environmental Protection may adopt
208 regulations, in accordance with chapter 54 of the general statutes, to
209 carry out the provisions of sections 2 to 5, inclusive, of this act.

210 Sec. 7. Subsection (h) of section 22a-477 of the general statutes is
211 repealed and the following is substituted in lieu thereof:

212 (h) Amounts in the water pollution control state account of the
213 Clean Water Fund shall be available: (1) To be invested by the
214 Treasurer of the state to earn interest on moneys in such account; (2)
215 for the commissioner to make grants to municipalities in the amounts
216 and in the manner set forth in a project funding agreement; (3) for the
217 commissioner to make loans to municipalities in amounts and in the
218 manner set forth in a project funding agreement for planning and
219 developing eligible projects prior to construction and permanent
220 financing; (4) for the commissioner to make loans to municipalities, for
221 terms not exceeding twenty years, for an eligible water quality project;
222 (5) for the commissioner to pay the costs of environmental studies and
223 surveys to determine water pollution control needs and priorities and
224 to pay the expenses of the department in administering the program;
225 (6) for the payment of costs for administration and management of the
226 Clean Water Fund; (7) provided such amounts are not required for the
227 purposes of such fund, for the Treasurer of the state to pay debt service
228 on bonds of the state issued to fund the Clean Water Fund, or for the
229 purchase or redemption of such bonds; (8) for the commissioner to
230 make grants to municipalities for the development and installation of
231 structural improvements to secondary clarifier operations including,
232 but not limited to, flow distribution mechanisms, baffle-type devices,
233 feed well design and sludge withdrawal mechanisms. Grants under
234 this subdivision shall be for one hundred per cent of the construction
235 cost and not more than three million dollars from the fund shall be
236 used for such grants; [and] (9) for the commissioner to pay the costs for
237 the establishment, administration and management of the nitrogen

238 credit exchange program described in section 4 of this act, including,
239 but not limited to, the purchase of equivalent nitrogen credits from
240 publicly-owned treatment works in the event that the account of state
241 funds established pursuant to section 4 of this act is exhausted; and
242 (10) for any other purpose of the Clean Water Fund and the program
243 relating thereto.

244 Sec. 8. This act shall take effect July 1, 2001.

ENV *Joint Favorable Subst.*